David Snyder - R317-4

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Attachments: DRAFT 23 With Comments.pdf

I would like to officially submit the following commentary along with my redlined version on the rule-

1) It is proposed that we start looking more closely at soil types and allow a soils evaluation as a stand-alone test. While this is done in other states and there are situations where we know what a soil will do without taking time to run a perc test, a big concern is that the soils evaluation on its own could potentially be used against a property owner. There are numerous soils evaluations and perc tests on record at different health departments with huge discrepancies between the perc test and the soils evaluation. Many existing soils evaluations would be deemed to have “unsuitable soils” in the new rule, but yet have perc tests that pass with flying colors. There should be language in the code to protect property owners from having an existing soils evaluation hinder their project when the perc test passed.

2) Although the new rule will always allow a perc test, what will be the determining factor for soil feasibility? If the Health Department or DEQ’s evaluation of the soil is different than the certified soils tester, can a perc test resolve this discrepancy? When a soil is called into question we need to have a clear path to determining feasibility because there is clearly a great amount of subjectivity involved with the soils evaluation. A property should not be denied a permit or restricted based off a soils evaluation alone. It should be clear in the rule that when tight clay soils are found, a perc test must be done and the health department must be a second witness to the perc test. These soils pose an extremely high risk for failure and it would be foolish not to witness water moving through them before issuing a permit. Don’t create a format where people can “evaluate” these soils without adequate testing and then set the homeowner up for failure in a year. It is extremely frustrating to encounter failures and clean up messes due to lack of appropriate testing. Let’s do our due diligence on these properties and get a good and safe system installed right up front.

3) Let’s do everything we can to make more properties buildable and not add more restrictive language. There is language throughout the rule stating that type 1 soils and blow sand are unfeasible. Sand is a great soil for both drainage and treatment and these broad statements are not necessary and could be very misleading. If a gravelly soil drains faster than 1 mpi or there are documented failures because of “blow sand”, the new rule should allow alternative systems as a fix and require that all health departments allow alternative systems. The same should be said for type 6 soils; if a property has enough area, clay soils alone should not prohibit building when there are safe and proven ways to address this. Another item in the current rule that should be changed is that slopes greater than 25% are not suitable for septic. There are safe ways to address this and open these properties up.

4) It is in everyone's best interest that septic systems are a safe and sustainable method of wastewater treatment. There are some very simple things that we can do to improve the performance and the safety of these systems with little to no cost to the homeowner. We are wasting our time with all of these rules if we don't require simple things like: testing tanks for water tightness; installing corrosion resistant materials; and installing access to critical components. There are many drainfields that have never seen a drop of water because everything leaked out of a poorly built septic tank before it got there. Several systems have failed because a cheap distribution box corroded (a $20 plastic box could have prevented a costly repair). Don't add restrictions on pressurized distribution when studies show this is one of the cheapest ways to greatly enhance the performance of a septic system and help the environment- all with a few hundred dollars worth of parts you can get at Home Depot.

5) There needs to be a separation of responsibilities. The certification program to evaluate soils and design septic systems needs to be controlled by an agency other than DEQ. If the new rule allows more subjectivity then there must be more responsibility. If questionable actions are being taken by certified individuals or regulators, there needs to be an independent agency where complaints can be reported and investigated. Also, some type of experience, expertise and practical knowledge should be demonstrated before someone is given the authority (regulator or contractor) to evaluate soils. This should limit "discrepancies" and give more credibility to the people out doing the work.

6) The whole variance process/experimental system part of the rule should be looked at more closely. Property owners should be given every opportunity to build on their property if they can do it without negatively impacting public health or the environment. There are very few (if any) variances that have been granted to property owners to date because the process is so complicated and costly and in the end they have no guarantee that the Health Department will agree to the variance. The only way a person can install an experimental system is to have a failing system or prove that they can install a conventional back up system. Doesn't this defeat the purpose? If a person can competently demonstrate that they won't harm public health or the environment why are they limited by these rules? One solution would be an appeals board consisting of several disciplines, including regulators, that would evaluate special situations on a case by case basis to make sure people aren't limited by the rule if there are other sensible options. If a person is told that their property is unbuildable by industry experts in addition to the regulatory authority, it will soften the blow and alleviate the burden on the Local Health Department.